

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

TRILLIUM PUMPS USA, INC. f/k/a  
WEIR FLOWAY, INC.,

Plaintiff,

V.

FCCI INSURANCE COMPANY,

Defendant.

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CASE NO. 5:22-cv-0079

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant, FCCI Insurance Company (“Surety”), and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby files this Notice of Removal to remove this action from the 25<sup>th</sup> Judicial District Court of Guadalupe County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division. In support of removal, Surety states as follows:

1. On January 13, 2022, Plaintiff, Trillium Pumps, Inc. f/k/a Weir Floway, Inc. (“Plaintiff”), initiated this action by filing Plaintiff’s Original Petition (“Petition”) in the 25<sup>th</sup> Judicial District Court of Guadalupe County, Texas, in the case styled and numbered *Trillium Pumps, Inc. f/k/a Weir Floway, Inc. v. FCCI Insurance Company*, Cause No. 22-0106-CV-E (the “State Court Action”). A true and correct copy of the Petition in the State Court Action is attached hereto as Exhibit “A.”

2. The first date upon which Surety received a copy of the Petition was January 14, 2022, when Surety was served with a copy of the Petition and a Citation (“Citation”) from the State Court Action. A true and correct copy of the Citation is attached hereto as Exhibit “B.”

***SUBJECT MATTER JURISDICTION***

3. This case is a civil action of which this Court has original subject matter jurisdiction pursuant to 28 U.S.C. §1332, and is one which may be removed to this Court by Surety pursuant to 28 U.S.C §1441(b) because: (a) there is diversity of citizenship between Plaintiff and Surety, and (b) the amount in controversy, exclusive of interest and costs, exceeds seventy-five thousand dollars (\$75,000.00).

4. Surety is now upon filing of this Notice of Removal, and was at the time this case was commenced, completely diverse in citizenship from Plaintiff and not a citizen of the State of Texas. Specifically, at all times relevant hereto the parties have been and are citizens of the respective states as alleged below.

5. Plaintiff is a citizen of the States of Delaware and Texas – it is a corporation which is organized and existing under the laws of the State of Delaware with its principal place of business (its USA Executive Headquarters) being located in Houston, Texas [Petition, Ex. A, p. 1, ¶3].

6. Surety is a citizen of the State of Florida – it is a corporation organized and existing under the laws of the State of Florida with its principal place of business being located in Sarasota, Florida [Petition, Ex. A, p. 1, ¶4].

7. The amount in controversy exceeds \$75,000.00 – Plaintiff alleges in the Petition that, as of the date the Petition was filed, the amount in controversy is \$87,962.48, exclusive of interest and costs [Petition, Ex. A, p. 3, ¶13].

8. This Notice of Removal is timely filed pursuant to 28 U.S.C. §§ 1441 and 1446(b) as it is filed within thirty (30) days after Surety’s receipt of the Petition and Citation in the State Court Action.

9. Removal to the United States District Court for the Western District of Texas, San

Antonio Division, is appropriate because it is the federal judicial district embracing Guadalupe County, Texas. [28 U.S.C. 1441(a)].

10. Pursuant to 28 U.S.C. §1446(d), Surety will, upon filing this Notice of Removal, promptly serve written notice of this Notice of Removal on Plaintiff and will file a copy of such notice with the District Clerk of Guadalupe County, Texas. A true and correct copy of such intended notice is attached hereto as Exhibit “C.”

11. Neither by removing this action nor by making any of the averments contained herein does Surety admit any of the allegations in the Petition or waive any available defenses.

12. If any question arises as to the propriety of the removal of the State Court Action, Surety requests the opportunity to present a brief and/or oral argument in support of its position that this case is removable.

WHEREFORE, Defendant, FCCI Insurance Company, removes the above-captioned action from the District Court of Guadalupe County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division.

DATED this 31<sup>st</sup> day of January, 2022.

Respectfully submitted,

/s/ Robert M. Fitzgerald

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*Attorneys for Defendant, FCCI Insurance Company*

*Certificate of Service*

I hereby certify that on the 31<sup>st</sup> day of January, 2022, a true and correct copy of the above and foregoing pleading was sent via email and certified mail, return receipt requested, postage prepaid, to the following counsel of record:

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